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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/522,162	03/09/2000	Mark Verdi	MSP-001	2423

7590

05/10/2005

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EXAMINER

HECK, MICHAEL C

ART UNIT PAPER NUMBER

3623

DATE MAILED: 05/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/522,162

Applicant(s)

VERDI ET AL.

Examiner

Michael C. Heck

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-10 and 12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-6,8-10 and 12 is/are allowed.
- 6) ☐ Claim(s) 7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 31 January 2005 has been entered.

2. The following is a First Office Action in response to the request for continued examination filed 31 January 2005. Claims 6 and 12 have been amended. Claims 2-10 and 12 are pending in this application and have been examined on the merits as discussed below.

### ***Response to Arguments***

3. Applicant's arguments see p. 8-18, filed 31 January 2005, with respect to claims 2-10 and 12 have been fully considered and are persuasive. The 35 U.S.C. 103(a) rejection of claims 2-10 and 12 has been withdrawn.

### ***Specification***

4. The disclosure is objected to because of the following informalities:

- On page 7, line 7, delete, "all group members 2", and insert -- all group members **6** --.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. **Claim 7** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 7 is dependent to claim 6 and further limits step (a), (d) and (g) of claim 6 by stating "step (a) further comprises establishing a predetermined group comprising two or more members that are required to respond to queries sent to them from a central location; step (d) further comprises sending the first query from the central location to the predetermined group, and step (g) further comprises sending the first analysis from the first location to the group". The Examiner has interpreted "further comprises" as an inclusive statement, such as "and", where the new statement is now "A" and "B", or independent claim 6 with dependent claim 7 now reads claim 6, steps (a), (d) and (g); and claim 7, steps (a), (d) and (g) . Therefore, it is not clear whether two "predetermined groups" have been identified or the predetermined group of claim 6 is now required to respond to queries sent to them from a central location. If only one predetermined group exist then it is not clear as to what queries sent to them from a central location they are required to respond to. That is, is the "first query" of steps (c), (d) and (e) included in the "queries" of claim 7? If so, then the steps (h), (i) and (j) of claim 6 are not applicable and carry no patentable weight. If not, then steps (h), (i) and (j) are applicable and the different "queries" are not distinctly claimed.

If there are two predetermined groups where the "first" predetermined group comprising more than two members is different than the "second" predetermined group comprising two or more members that are required to respond to queries sent to them from a central location, then the two predetermined groups are not distinctly claimed. In addition, it is not clear as to which group the claim 6 steps are referring to. That is three "groups" may exist: a "first" predetermined group, a "second" predetermined group, and a group. For example, step (b) of claim 6 refers to receiving a first electronic message from a first member of the group; step (d), refers to electronically sending the first query from the central location to at least a portion of the predetermined group and sending the first query from the central location to the predetermined group, step (e) refers to receiving at least one electronic message from at least one second member of the group comprising a response to the first query, step (g) refers to electronically sending the analysis to the predetermined group and sending the first analysis from the first location to the group, and step (j) refers to electronically sending the non-group analysis to at least the first member of the group.

In addition, is "first location" of claim 7 the same as "central location" of claim 6? If they are two distinct locations, then it is not clear as to what the applicant intended by the claim language. Therefore, the applicant failed to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

***Allowable Subject Matter***

7. **Claims 2-6, 8-10 and 12** are allowed.

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8. **Claim 7** would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Michael C. Heck whose telephone number is (571) 272-6730. The Examiner can normally be reached Monday thru Friday between the hours of 8:30am - 4:30pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq R. Hafiz can be reached on (571) 273-6729.

Any response to this action should be mailed to:

**Director of the United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, Virginia 22313-1450**

Or faxed to:

<b>(703) 872-9306</b>	[Official communications; including After Final communications labeled " <b>Box AF</b> "]
<b>(571) 273-6730</b>	[Informal/Draft communication, labeled " <b>PROPOSED</b> " or " <b>DRAFT</b> "]

mch  
05 May 2005

  
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